

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ROBERT L. GRIFFIN, JR.,

CIVIL NO. 10-2360 (SRN/JSM)

Plaintiff,

v.

REPORT AND RECOMMENDATION

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

The above matter was filed on June 14, 2010 [Docket No. 1]. Plaintiff's request to proceed in forma pauperis was granted on July 1, 2010 [Docket No. 3] and the defendant was served on July 23, 2010 [Docket No. 5]. The defendant filed an Answer [Docket No. 6] and the Administrative Record [Docket No. 7] on September 17, 2010. A supplemental Administrative Record was filed on September 22, 2010 [Docket No. 9]. Pursuant to Local Rule 7.2(b)(1), plaintiff is to serve and file his motion for summary judgment on or before 60 days of the answer and transcript being filed.

On November 30, 2010, plaintiff filed an undated letter to Richard Sletten, Clerk of United States District Court [Docket No. 10], in which Mr. Griffin states: "I, Robert L. Griffin Jr. Request to file a motion for an enlargement of time, Reason being is that I am seeking representation." Plaintiff does not state how much additional time he is seeking, nor did he provide a copy of the letter to the undersigned. The Court treated this letter as a request for enlargement of time to serve and file plaintiff's motion for summary judgment.

On December 3, 2010, the Court granted plaintiff to and including December 30, 2010 to serve and file his motion for summary judgment, memorandum in support and any supporting documents. If plaintiff failed to comply, it would be recommended that

the action be dismissed without prejudice [Docket No. 11]. On December 3, 2010, plaintiff was also referred to the Federal Bar Association's Pro Se Project, who has been assisting plaintiff in retaining counsel [Docket No. 12]. The Court granted plaintiff an informal extension to and including January 18, 2011 to serve and file his motion for summary judgment. In addition, defendant filed a letter which was sent to Mr. Griffin advising that unless plaintiff filed a motion for summary judgment or requested an extension of time by February 1, 2011, defendant would be moving to dismiss the case [Docket No. 15]. The Court has been in contact with the FBA Pro Se Project and is aware of their attempts to assist Mr. Griffin in retaining counsel. On January 28, 2011 [Docket No. 16], plaintiff requested a second extension of time to allow the pro se attorney time to review his files. That motion was granted on February 3, 2011 [Docket No. 17]. Nothing further has been filed in the above matter.

The Court, being duly advised upon all of the premises, records, files and proceedings herein, now makes and enters the following Order.

IT IS HEREBY RECOMMENDED that this case be dismissed without prejudice for failure to prosecute pursuant to Fed. R. Civ. P. 41(b).

Dated: March 11, 2011

s/ Janie S. Mayeron

JANIE S. MAYERON

United States Magistrate Judge

Under D.Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **March 25, 2011**, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a

forfeiture of the objecting party's right to seek review in the Court of Appeals. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under this rule shall be limited to 3500 words. A judge shall make a de novo determination of those portions of the Report to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable directly to the Circuit Court of Appeals.